

In the Court of Appeals of the State of Alaska

Abraham E Henry,
Appellant,

v.

State of Alaska,
Appellee.

Court of Appeals No. **A-13145**

Order

Motion for Representation Hearing

Date of Order: **April 27, 2020**

Trial Court Case No. **4FA-12-01224CI**

Before: Allard, Chief Judge, and Wollenberg, Judge

The Appellant, Abraham Henry, is currently represented by attorney Marilyn Kamm, under contract with the Office of Public Advocacy. Ms. Kamm has filed a motion asking this Court to remand Mr. Henry's case to the superior court for a representation hearing. Ms. Kamm explains that Mr. Henry would like the court to find that she has rendered ineffective assistance of counsel, and he would like the court to order the Office of Public Advocacy to appoint another attorney to represent him.

We GRANT the request for a representation hearing, and we REMAND this case to the superior court to determine whether there is good cause for a change in counsel.¹ We note that, in a recent order granting Ms. Kamm's request for an extension of time to file Mr. Henry's opening brief, we expressed concern about the particular delays that had occurred in his case. (We have attached a copy of our order.) Depending on the concerns raised, the court may wish to invite a representative of the administrative section of the Office of Public Advocacy to attend the representation hearing.

¹ See *Moore v. State*, 123 P.3d 1081, 1088 (Alaska App. 2005) (recognizing that a criminal defendant does not have the right to reject appointed counsel and have new counsel appointed at public expense in the absence of any showing of cause for that change).

Accordingly, **IT IS ORDERED:**

1. Mr. Henry's case is remanded to the superior court to determine whether there is good cause to allow Ms. Kamm to withdraw from representing Mr. Henry and to appoint new counsel to represent Mr. Henry in this appeal.

2. The superior court shall inform this Court of its findings on or before May 27, 2020. Under current administrative orders related to the COVID-19 pandemic, the court may hold the representation hearing telephonically. If the court is unable to hold the hearing, the court shall notify this Court of that circumstance.

3. The current deadline for the Appellant's opening brief is stayed pending the outcome of the proceedings in the superior court.

Entered at the direction of the Court.

Clerk of the Appellate Courts



Beth A. Pechota, Deputy Clerk

cc: Court of Appeals Judges
Judge Lyle
Central Staff
Trial Court Clerk - Fairbanks

Distribution:

Mail:
Kamm, Marilyn J, OPA - Contract
Haines, Patricia L.